

**SECOND SUPPLEMENT TO THE
GIBRALTAR GAZETTE
No. 4135 of 18 December, 2014**

LEGAL NOTICE NO.253 OF 2014.

**FINANCIAL SERVICES (COLLECTIVE INVESTMENT
SCHEMES) ACT 2011**

**FINANCIAL SERVICES (COLLECTIVE INVESTMENT
SCHEMES) (AMENDMENT) REGULATIONS 2014**

In exercise of the powers conferred upon it by section 53(1) of the Financial Services (Collective Investment Schemes) Act 2011, and in order to transpose, in part, into the law of Gibraltar Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Fund Managers in respect of over-reliance on credit ratings, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Financial Services (Collective Investment Schemes) (Amendment) Regulations 2014 and come into operation on 21 December 2014.

Amendment of Regulations.

2.(1) The Financial Services (Collective Investment Schemes) Regulations 2011 are amended in accordance with this regulation.

(2) In regulation 2, before the definition of “cross-border merger”, insert the following definition—

““credit rating agency” has the meaning given in Article 3(1)(b) of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies;”.

(3) In regulation 48(1)–

(a) in paragraph (a) insert “of a UCITS” after “portfolio”; and

(b) after paragraph (a) insert–

“(aa) ensure that it does not rely solely and mechanistically on credit ratings issued by credit rating agencies for assessing the creditworthiness of the UCITS’ assets;”.

(4) Before subregulation (3), insert–

“(2A) The Authority shall–

(a) monitor the adequacy of credit assessment processes of management companies or open-ended investment companies;

(b) assess the use of references to credit ratings issued by credit rating agencies in the UCITS’ investment policies; and

(c) where appropriate, encourage mitigation of the impact of references referred to in paragraph (b);

taking into account the nature, scale and complexity of a UCITS’ activity, and with a view to reducing the sole and mechanistic reliance on credit ratings.”.

Dated 18th December, 2014.

A ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These Regulations transpose, in part, into the law of Gibraltar Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013 amending Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision, Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) and Directive 2011/61/EU on Alternative Investment Fund Managers in respect of over-reliance on credit ratings.

